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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,833	06/27/2003	Kohki Takato	234258US-2RD CONT	4826

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

NGUYEN, HOAN C

ART UNIT	PAPER NUMBER
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2871

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/606,833

Applicant(s)

TAKATO ET AL.

Examiner

HOAN C. NGUYEN

Art Unit

2871

Am

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 12/18/03
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Applicant cancelled claims 1-31; therefore, ONLY claims 32-38 are now pending.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 32-33 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 23 of U.S. Patent No. 6445434.

Although the conflicting claims are not identical, they are not patentably distinct from each other because "a visible image" in claims 23 of US patent No. 6445434 has the same meaning with "a fixed image" in claims 32-33 of the instant application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 32-33 and 35-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Ushiyama (US4241339).

In regard to claim 32, Ushiyama teaches (Figs. 3-4) a terminal comprising

- a driving circuit providing voltage;
- a first liquid crystal layer 28 displaying an image determined by said driving circuit;
- a second liquid crystal layer 27 on said first liquid crystal layer;
- alignment layers (enhancing to align liquid crystal molecules 24 as Fig. 3 shown, col. 5 lines 52-65) sandwiching said second liquid crystal layer, said alignment layers including regions displaying a fixed image, with orientations of adjacent of said regions being different.

wherein

- said fixed image comprises indicia (defining as identifying mark) including a visible figure (claim 33), a letter (claim 35) or a logo (claim 36).
- said fixed image comprises a color (col. 6 line 49 to col. 7 line 3) according to claim 37.
- said fixed image formed by said first liquid crystal layer is displayed at a front direction and said fixed image independent of said driving circuit is displayed at an oblique direction, and said fixed image is formed by said second liquid crystal layer (claim 38).

- a first image formed by said first liquid crystal layer is displayed at a front direction and said first image is screened by said fixed image independent of said driving circuit formed by said second liquid crystal layer at an oblique direction (claim 39).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ushiyama (US4241339) as applied to claims 32-33 and 35-39.

Ushiyama fails to disclose the fixed image comprising squares.

It would have been an obvious matter of design choice for the fixed image comprising squares since applicant has not disclosed any reason that the square fixed image solves any particular problem or pertains any particular purpose.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify a terminal as Ushiyama disclosed with the fixed image comprising squares for design choice to form any visible figure or logo.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Hijii (US5903327) discloses liquid crystal display unit and illuminating control method of PICT display section.

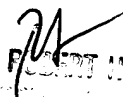
Paratte (US5513027A) discloses liquid crystal display device capable of displaying changeable symbols using two substrates.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HOAN C. NGUYEN whose telephone number is (571) 272-2296. The examiner can normally be reached on MONDAY-THURSDAY:8:00AM-4:30PM.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HOAN C. NGUYEN
Examiner
Art Unit 2871

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